

1 LATHAM & WATKINS LLP
2 Michael W. De Vries (SBN 211001)
3 *mike.devries@lw.com*
4 Andrew Fossum (SBN 250373)
5 *andrew.fossum@lw.com*
6 650 Town Center Drive, 20th Floor
7 Costa Mesa, California 92626
8 Telephone: (714) 540-1235
9 Facsimile: (714) 755-8290

10 Attorneys for Plaintiff
11 SINHDARELLA, INC.

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA

15 SINHDARELLA, INC., a California
16 corporation,

17 Plaintiff,

18 v.

19 KEVIN VU, an individual, d/b/a/ THE
20 BOILING CRAB; and DOES 1 through 10,

21 Defendants.

CASE NO. C 07-04353 WHA

Honorable William H. Alsup

**DECLARATION OF DADA NGO IN
SUPPORT OF PLAINTIFF SINHDARELLA,
INC.'S MOTION FOR PRELIMINARY
INJUNCTION**

Date: February 7, 2008

Time: 8:00 a.m.

Courtroom: 9

DECLARATION OF DADA NGO

I, Dada Ngo, hereby declare under penalty of perjury that:

1. I am the President and co-founder of Sinhdarella, Inc. ("Sinhdarella").
2. Sinhdarella is a corporation organized and existing under the laws of the State of California, with its principal headquarters located in Fountain Valley, California.
3. Sinhdarella operates a chain of restaurants throughout the United States under the trademark THE BOILING CRAB® and offers restaurant services and related products and services under the trademark THE BOILING CRAB®. Sinhdarella opened its first restaurant under the name THE BOILING CRAB in California in early 2004. Throughout 2003, Sinhdarella was preparing to open its first restaurant including by filing its fictitious business name statement.
4. Sinhdarella's THE BOILING CRAB® restaurants offer Louisiana-style seafood, including blue crab, oysters, Dungeness crab, shrimp, and crawfish seasoned with THE BOILING CRAB® restaurants' distinctive blends of spices and seasonings.
5. A true and correct copy of a menu that has been used at Sinhdarella's THE BOILING CRAB® restaurants is attached hereto as Exhibit A.
6. Photographs that fairly and accurately depict the exterior of Sinhdarella's THE BOILING CRAB® restaurant located at 14241 Euclid St. #C-116, Garden Grove, CA are attached hereto as Exhibit B.
7. Photographs that fairly and accurately depict the interior of Sinhdarella's THE BOILING CRAB® restaurant located at 14241 Euclid St. #C-116, Garden Grove, CA are attached hereto as Exhibit C.
8. A photograph that fairly and accurately depicts some of the food preparations at Sinhdarella's THE BOILING CRAB® restaurant located at 14241 Euclid St. #C-116, Garden Grove, CA is attached hereto as Exhibit D.
9. A true and correct copy of Sinhdarella's advertisement appearing in the Yellow Pages is attached hereto as Exhibit E.

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- 1 10. Photographs that fairly and accurately depict some of Sinhdarella's advertising are
2 attached hereto as Exhibit F.
- 3 11. Sinhdarella is the owner of the domain names theboilingcrab.com and boilingcrab.com.
- 4 12. A true and correct copy of Sinhdarella's website appearing at <http://boilingcrab.com> and
5 <http://theboilingcrab.com> is attached hereto as Exhibit G. Sinhdarella owns and operates
6 this website to promote, and provide consumers with information concerning,
7 Sinhdarella's nationwide chain of THE BOILING CRAB® restaurants.
- 8 13. A true and correct copy of Sinhdarella's Myspace.com page appearing at
9 <http://www.myspace.com/theboilingcrab> on or about December 7, 2007 is attached hereto
10 as Exhibit H. Sinhdarella maintains this web page in order to promote its THE
11 BOILING CRAB® trademark and to provide information about and promote its chain of
12 THE BOILING CRAB® restaurants.
- 13 14. On January 17, 2007, I received an email from a customer asking whether the restaurant
14 operating under the name "The Boiling Crab" was affiliated with the "ones in Orange
15 County." Attached as Exhibit I is a true and correct copy of that email.
- 16 15. Attached as Exhibit J is a true and correct copy of the "cease and desist" letter that
17 Sinhdarella sent to the restaurant operating under the name "The Boiling Crab" at 393 N.
18 Capitol Avenue, San Jose, CA on October 2, 2006.
- 19 16. Attached as Exhibit K is a true and correct copy of the proof of publication of
20 Sinhdarella's fictitious business name statement filed July 25, 2003.
- 21 17. Attached hereto as Exhibit L are true and correct copies of THE BOILING CRAB® gift
22 cards issued by Sinhdarella.
- 23 18. Attached hereto as Exhibit M is a true and correct copy of a business card used to
24 promote Sinhdarella's THE BOILING CRAB® restaurants.
- 25 19. Attached hereto as Exhibit N is a true and correct copy of a photograph that fairly and
26 accurately represents a T-shirt bearing THE BOILING CRAB® trademark, which is used
27 to promote THE BOILING CRAB® restaurants and worn by employees at THE
28 BOILING CRAB restaurants.

1 20. Attached hereto as Exhibit O is a true and correct copy of a photograph that fairly and
2 accurately represents a hat bearing THE BOILING CRAB® trademark, which is used to
3 promote THE BOILING CRAB® restaurants and worn by employees at THE BOILING
4 CRAB restaurants.

5 21. Attached hereto as Exhibit P is a true and correct copy of a photograph that fairly and
6 accurately represents a wristband bearing THE BOILING CRAB® trademark, which is
7 used to promote THE BOILING CRAB® restaurants.

8 22. Attached hereto as Exhibit Q is a true and correct copy of a photograph that fairly and
9 accurately represents a bib bearing THE BOILING CRAB® trademark, which is used to
10 promote THE BOILING CRAB® restaurants and given to customers during their meal.

11 23. Attached hereto as Exhibit R is a true and correct copy of a photograph that fairly and
12 accurately represents a crab mallet bearing THE BOILING CRAB® trademark and
13 phone number, which is used to promote THE BOILING CRAB® restaurants and given
14 to customers during their meal.

15 24. Attached hereto as Exhibit S is a true and correct copy of a blog entry discussing THE
16 BOILING CRAB® that I printed on November 18, 2006.

17 25. Attached hereto as Exhibit T is a true and correct copy of a review of THE BOILING
18 CRAB® taken from LA Weekly.

19 26. Attached hereto as Exhibit U is a true and correct copy of a review of THE BOILING
20 CRAB® printed from OC Weekly's website on December 2, 2007.

21 27. On December 12, 2007 I visited San Jose with my husband Sinh Nguyen to meet with
22 our broker, Jerry Huynh. We checked out several potential spaces for lease and discussed
23 other potential leases that were available in the San Jose area. We are currently in the
24 process of putting together a "Letter of Intent" for the landlord at one of the locations.

25 28. Since November 2006, Sinhdarella has and will continue to actively look for an available
26 lease for a THE BOILING CRAB® restaurant in Seattle, Washington. On February 14,
27 2007, Sinh and I took a trip to Seattle to view potential locations for lease.

28 29. Sinhdarella has also been actively looking for leases to expand into San Diego and

1 Koreatown in Los Angeles.

2 30. In April 2004, Viet Thao, who is an extremely popular emcee for a series of DVDs called
3 VAN SON Entertainment, visited the original THE BOILING CRAB® location. After
4 his visit, he approached Sinhdarella and offered to include a segment about THE
5 BOILING CRAB® on his upcoming DVD, Van Son in Little Saigon 2. Attached as
6 Exhibit V is a true and correct copy of that DVD, which I understand was distributed
7 throughout United States. I believe the DVD was released in 2005, and it bears a
8 copyright marking from 2005 on the disc. I obtained a copy of the DVD at least as early
9 as the first half of 2006. The segment on THE BOILING CRAB® appears on Disc 2,
10 Chapter 10, from 1:52:33 to 1:55:56. As a result of the exposure on this DVD, people
11 from Los Angeles, San Diego, and San Jose called THE BOILING CRAB® and inquired
12 about our business hours, address, and directions to where we were located.

13 31. Early in 2007, SaigonTV approached Sinhdarella and asked if we would be willing to be
14 in their “What’s Hot” segment referring to the growing popularity of crawfish in the
15 Vietnamese American community. They had heard that we were the “pioneers” of this
16 type of crawfish restaurant. This segment again put the spotlight on our business as the
17 Van Son video had two years before and solidified our place in the Vietnamese-American
18 community as a rapidly growing “cajun-food or crawfish restaurant.” Once again our
19 restaurant was being viewed in homes all across the United States. However, this time
20 the exposure was on cable television in English rather than a Vietnamese-language DVD.
21 When the segment aired on SaigonTV, I recorded a digital copy of it. Attached as
22 Exhibit W is a true and correct copy of the recording.

23 32. Sinhdarella currently has three THE BOILING CRAB® restaurants in California, a THE
24 BOILING CRAB® restaurant in Houston, Texas, and a THE BOILING CRAB®
25 restaurant which will open in the near future in Dallas, Texas.

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1 33. Kevin Vu does not have authorization to use Sinhdarella's THE BOILING CRAB®
2 trademark or trade dress.

3 I declare under penalty of perjury of the laws of the United States that the
4 foregoing is true and correct.

5 Executed this 27th day of December, 2007 at Fountain Valley, California.

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9 Dada Ngo
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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 650 Town Center Drive, 20th Floor, Costa Mesa, CA 92626-1925.

On **December 28, 2007**, I served the following document described as:

**DECLARATION OF DADA NGO IN SUPPORT OF PLAINTIFF SINHDARELLA,
INC.'S MOTION FOR PRELIMINARY INJUNCTION**

by serving a true copy of the above-described document in the following manner:

BY U.S. MAIL

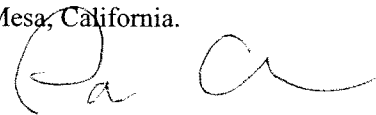
I am familiar with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service. Under that practice, documents are deposited with the Latham & Watkins LLP personnel responsible for depositing documents with the United States Postal Service; such documents are delivered to the United States Postal Service on that same day in the ordinary course of business, with postage thereon fully prepaid. I deposited in Latham & Watkins LLP' interoffice mail a sealed envelope or package containing the above-described document and addressed as set forth below in accordance with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service:

Christopher Hays, Esq.
Law Offices of Christopher Hays
One Embarcadero Center, Suite 500
San Francisco, California 94111

Attorneys for Defendant
Kevin Vu

I declare that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **December 28, 2007**, at Costa Mesa, California.



Pamela J. Carvalho